

# COUNTY OF YORK

## MEMORANDUM

**DATE:** August 8, 2000 (BOS Mtg. 8/15/00)

**TO:** York County Board of Supervisors

**FROM:** Daniel M. Stuck, County Administrator

**SUBJECT:** Application No. ZT-49-00, York County Board of Supervisors

### ISSUE

This application, sponsored by the Board of Supervisors at its June 20 meeting, seeks to amend the York County Zoning Ordinance to require a special use permit for all retail uses, including shopping centers, with 80,000 or more square feet of gross floor area.

### CONSIDERATIONS/CONCLUSIONS

1. As the Board is aware, following the adoption of the updated Comprehensive Plan, staff has been conducting a complete review of the Zoning Ordinance, performing in-depth research and drafting proposed revisions both to ensure consistency with the plan and to make the ordinance easier for the users to understand and for the staff to administer. One of the topic areas identified in the original work program for this project as requiring specific attention was the regulation of so-called "big box" retailers. The Zoning Ordinance does not currently contain performance standards for "big box" retail uses or identify them as a specific land use. "Big box" development is becoming an increasingly important issue, both because of the growing prevalence of such developments both in Hampton Roads and nationwide and because of their potential for having significant impacts on surrounding properties and the County as a whole.

Because of the extensive amount of research required and the need for work sessions and public hearings, the Zoning Ordinance update most likely will not be ready for adoption before the end of this year. Rather than wait until then, the Board decided to take action now by sponsoring this application. The Board's intent in doing so was to ensure that if a "big box" development were proposed, the Board, through the establishment of use permit conditions, would be able to enact performance standards to mitigate any adverse impacts and to ensure a well-designed, visually attractive, high-quality development. It would also enable the Board to prohibit such a development from being built in an inappropriate location.

2. Almost all retail uses, including shopping centers, are permitted as a matter of right in the GB (General Business) and EO (Economic Opportunity) zoning districts; most are also permitted in the LB (Limited Business) zoning district, either as a matter of right or with a special use permit. The proposed amendment would not prohibit "big box" retail uses anywhere that they are currently allowed, nor would it permit them anywhere that they are currently prohibited.
3. The Zoning Ordinance Table of Land Uses (Section 24.1-306) currently does not distinguish among retail uses with regard to size. However, in comparison with small or medium-sized stores or shopping centers, large-scale retail developments have considerably greater impacts on surrounding

properties and on the communities in which they are located. For this reason, I believe it is appropriate to differentiate between these types of uses by requiring use permits for the large-scale developments. In describing the purpose of special use permits, Section 24.1-115 of the Zoning Ordinance states, "Certain uses, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right but may, under the right set of circumstances and conditions be acceptable in certain specific locations." I am of the opinion that "big box" retail developments, because of their size and scale, belong in this category.

### **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission considered the proposed amendments at its July 12 meeting and, subsequent to holding a public hearing at which no one spoke, voted unanimously (6:0, Mrs. White absent) to recommend adoption.

One question raised by several members during the Commission's deliberations was whether a "big box" retailer moving into an *existing* development (for example, a shopping center) that had at least 80,000 square feet of floor area would be subject to the use permit requirement. The answer to this question is that, pursuant to §24.1-115(c)(4) of the Zoning Ordinance, such a development would be considered a conforming special use as long as it continues in existence. As such, any significant enlargement or expansion would require Board approval, while insignificant modifications could be approved by the Zoning Administrator. If the use were discontinued for a period of two years or more, it would lose its status as a conforming special use and could only be reinstated upon the issuance of a special use permit.

Another question raised by members of the Planning Commission was whether the use permit requirement would apply in the case of an existing structure with less than 80,000 square feet that is redeveloped in such a way as to increase the gross floor area to 80,000 square feet or more. My opinion is that such a use should be treated the same as a conforming special use. That is, a significant expansion (25% or more) should require a use permit but minor expansions (5% or less) could be authorized by the Zoning Administrator or, where the expansion is greater than 5% but less than 25%, by the Board without a public hearing. Accordingly, staff has revised the proposed text amendment to state that any redevelopment involving an addition, expansion, renovation, enlargement, or other modification that would increase the gross floor area to 80,000 or more square feet shall be subject to the standards and procedures applicable to amendment of special use permits set forth in Section 24.1-115(d) of the Zoning Ordinance.

### **COUNTY ADMINISTRATOR RECOMMENDATION**

Requiring special use permits for very large retail developments will ensure that any such projects undergo close scrutiny by the Planning Commission and the Board of Supervisors through the special use permit process. This will give the staff, Planning Commission, and Board time to develop adequate Zoning Ordinance provisions for this type of use while, in the short term, giving the Board the flexibility it needs to ensure that these massive developments are built only in appropriate locations subject to conditions to mitigate any adverse impacts. Ultimately, after the Zoning Ordinance update has been completed, it may no longer be necessary to require a use permit in all cases if adequate performance

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standards can be developed. To address the “big box” issue in the meantime, however, I recommend adoption of the proposed Zoning Ordinance amendments contained in Ordinance No. 00-15.

Baldwin/3495

Attachments:

- Excerpts of unapproved Planning Commission minutes, July 12, 2000
- Proposed Ordinance No. 00-15